

## FORWARD WISCONSIN DEVELOPMENT AUTHORITY

Budget Summary							
Fund	2014-15 Base Year Doubled	2015-17 Governor	2015-17 Jt. Finance	Joint Finance Change to:			
				Governor		Base	
				Amount	Percent	Amount	Percent
GPR	\$0	\$80,374,700	\$0	- \$80,374,700	- 100.0%	\$0	N.A.
SEG	<u>0</u>	<u>22,776,000</u>	<u>0</u>	<u>- 22,776,000</u>	- 100.0	<u>0</u>	N.A.
TOTAL	\$0	\$103,150,700	\$0	- \$103,150,700	- 100.0%	\$0	N.A.

FTE Position Summary
As an Authority, there would be no state positions for the Forward Wisconsin Development Authority.

### Budget Change Items

#### 1. CREATE THE FORWARD WISCONSIN DEVELOPMENT AUTHORITY

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Net Change
GPR	\$24,874,700	- \$24,874,700	\$0
SEG	<u>22,776,000</u>	<u>- 22,776,000</u>	<u>0</u>
Total	\$47,650,700	- \$47,650,700	\$0

**Governor:** Merge programs of the Wisconsin Economic Development Corporation (WEDC) and the Wisconsin Housing and Economic Development Authority (WHEDA) into a new public body corporate and politic named the Forward Wisconsin Development Authority (FWDA). Specify the merger would take general effect on January 1, 2016, or the day after publication of the budget bill, whichever is later.

*Programs and Program Funding.* The bill would transfer to FWDA authority for all of WEDC's statutory programs, as well as all programs created under the Corporation's policies and procedures. WEDC offers a number of programs that provide tax credits, loans, grants and technical assistance to eligible Wisconsin companies. In addition, the bill would provide FWDA

grants from DOA in 2016-17 in the following amounts: (a) \$24,874,700 GPR for general program operations related to economic development programs developed, implemented, and operated by the Authority; (b) \$21,776,000 SEG from the economic development fund to fund and administer economic development programs; and (c) \$1,000,000 SEG from the environmental fund for brownfield site assessment grants. WEDC would transfer the unencumbered balance in the Corporation's appropriations to FWDA on the effective date of the merger.

The bill would transfer to FWDA the statutory authority for the following WHEDA programs, which remain active or were recently active and have loans outstanding:

Housing Programs

- Homeownership mortgage loan program
- Housing rehabilitation loan program
- Property tax deferral loan program

Loan Guarantee Programs

- Small business development
- Agricultural production (known as the credit relief outreach program, or CROP)
- Drought relief agricultural production
- Agricultural development
- Farm asset reinvestment management (FARM)

The bill also would transfer statutory authority for the following temporary or inactive programs:

Housing Programs

- Veterans housing loans
- Qualified subprime refinance loans
- Homeownership eviction and lien protection (HELP)

Loan Guarantee Programs

- Emergency heating assistance
- Recycling
- Public affairs network
- Job training
- Drinking water

FWDA also would be required to continue allocating any year-end unencumbered general reserves, or "surplus," to housing programs. Under current law, WHEDA annually submits to the Governor and Legislature a plan, known as "Dividends for Wisconsin," for expending its unencumbered general reserves.

WHEDA reports other programs operated under its general authority, and not specifically created by statute, would be expected to continue. These include: (a) several programs for financing multifamily housing developments; (b) programs for assistance with down payments

and closing costs on the purchase of single-family residences under WHEDA lending programs; and (c) loan guarantee and other programs operated from WHEDA's general reserves or with federal funds.

The bill would specify that the assets and liabilities, tangible personal property, pending matters, contracts, and policies and procedures of WEDC and WHEDA would be transferred to FWDA on the merger's effective date. (The bill also would transfer incumbent employees of each entity to FWDA. Employment is discussed in a separate section.)

FWDA would have authority to issue bonds and notes to fund economic development and housing programs. Provisions regarding FWDA bonding authority generally would be those provisions under current law specified for WHEDA bond issues. Also, the bill would retain the Legislature's "moral obligation" on certain bonds. Under current law, the Legislature has declared its "expectation and aspiration" to provide funding sufficient to resolve any deficiencies that may result in bonds for which WHEDA has established a capital reserve. However, despite the expressed moral obligation, FWDA bonds would specifically not be liabilities of the State of Wisconsin.

Further, among these provisions are the presumption that bonds are issued under the Authority's general obligation, to be payable from any sources available to the Authority, unless the issue expressly states otherwise. Also, the Authority could, prior to issue, declare interest received on the bonds to be subject to federal income taxes.

Funds created by statute and administered by WHEDA under current law would be transferred to FWDA, including: (a) the Wisconsin Development Reserve Fund, which supports WHEDA guarantee programs for loans issued for agricultural and economic development; (b) the housing development fund, which is to be used to defray costs of developments providing housing for persons of low or moderate income; and (c) the housing rehabilitation loan program administration fund, which supports a program to provide loans for necessary upgrades or energy-efficiency improvements. The bill would retain the statutory authority for separate, but inactive, guarantee funds for the job training and drinking water loan guarantee programs. The state housing authority reserve fund, a segregated fund created in Chapter 25 of the statutes for supporting the housing rehabilitation loan program, generally would not be affected by the bill, although the fund is no longer actively used.

*Governance and Executive Structure.* The bill would place FWDA under the direction and supervision of a 12-person board consisting solely of persons employed in the private sector and nominated by the Governor with the advice and consent of the Senate. The Board would elect its chairperson. Seven members would constitute a quorum for purposes of conducting FWDA business and exercising FWDA's powers, and action could be taken upon the majority vote of a quorum. Initial members of FWDA's Board of Directors would be provisionally appointed by the Governor until withdrawn by the Governor or acted upon by the Senate and, if confirmed, would continue for the remainder of the unexpired term until a successor is chosen. If the Board were to have a vacancy, that vacancy would be filled in the same manner as the original appointment to the Board for the remainder of the unexpired term.

FWDA operations would be executed by a chief executive officer (CEO) nominated by the

Governor, approved by the Board, and confirmed under the advice and consent of the Senate. A chief operating officer (COO) would be appointed by the Governor and approved by the Board. (The Governor could provisionally appoint a CEO and a COO who would remain in effect until such time that such appointment would be withdrawn by the Governor or rejected by the Senate.) Both the CEO and COO would serve at the pleasure of the Governor. The Board would have authority to determine the compensation of the CEO and COO. The bill specifies that the Governor is to coordinate with the CEO as if the CEO were secretary of an executive branch agency. If the Governor were to withdraw a provisional appointee or the Senate were to reject a provisional appointee, a vacancy would exist on the Board. Board members would serve staggered four-year terms. The initial appointments would exist on the Board until the following member terms would expire: (a) three on January 1, 2017; (b) three on January 1, 2018; (c) three on January 1, 2019; and (d) the remaining members on January 1, 2020.

FWDA's Board of Directors would be required to submit a report to the Legislature detailing an organizational plan no later than 30 days following creation of the Authority. In addition, WHEDA and WEDC would have to seek to coordinate their activities and efforts to establish and organize FWDA.

Under the bill, the Legislative Fiscal Bureau and the Legislative Audit Bureau would be given access to any records and documents of the Authority.

The Board would be charged with developing and implementing economic development and housing programs and projects: (a) to provide business, housing and other support and expertise and assistance to persons that are investing or creating jobs in Wisconsin; (b) to support new business start-ups, business expansion and growth, and home ownership in Wisconsin; and (c) to provide single-family and multifamily housing to persons and families of low and moderate income in Wisconsin. The Board would have general authority to develop other economic development and housing programs in Wisconsin.

The Board would be provided with the following powers:

- To adopt, amend, and repeal any bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;
- To have a seal and alter it at pleasure;
- To maintain offices;
- To sue and be sued;
- To accept gifts, grants, loans or other contributions from private or public sources;
- To establish an annual budget and monitor the fiscal management of the Authority;
- To make equity investments and execute contracts, securities, mortgages and other instruments as required for operation of the Authority;
- To employ officers, agents and employees as required and determine their

qualifications, duties and compensation;

- To issue notes, bonds or other obligations;
- To make loans and provide grants;
- To incur debt;
- To procure liability insurance;
- To enter into agreements regarding compensation, space and other administrative matters as necessary to operate offices in other states or foreign countries, with such agreements subject to approval by the Secretary of Administration;
- To consent to conditions on federal financial assistance;
- To lease real or personal property and to accept federal funds for and participate in such federal housing programs as were enacted as of May 4, 1976, or at any future time, except the Authority may not accept, without the consent of the Governor, federal funds under federal housing programs enacted after May 8, 1982, if issuance of the Authority's bonds and notes is not required to participate in the program; and
- To establish and maintain a corporation organized under state law as a business corporation or a nonstock corporation.

All powers and duties assigned to FWDA would be exercised or carried out by the Board, unless the Board were to delegate the power or duty to an employee of the Authority or to a committee established by the Board. The Board could delegate any powers and duties the Board considers proper to FWDA's CEO and COO.

*Employment.* The bill specifies all WHEDA and WEDC employees become employees of FWDA on the effective date of the merger. Under current law, WHEDA and WEDC employees are considered state employees for purposes of Chapter 40 of the statutes (employee trust funds and employee benefits). As such, WHEDA and WEDC employees generally are eligible for similar benefits afforded to persons employed by state agencies, including participation in the Wisconsin Retirement System and eligibility for health insurance benefits administered by the Group Insurance Board for employees of state agencies. These provisions would not be affected by the bill.

**Joint Finance:** Delete provision.

## 2. REGIONAL REVOLVING LOAN FUND GRANT PROGRAM [LFB Paper 300]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Net Change
GPR	\$55,000,000	- \$55,000,000	\$0

**Governor:** Provide \$55,000,000 in 2016-17 for grants to FWDA in the Authority's regional revolving loan fund grants appropriation to establish a regional revolving loan fund grant program. Require FWDA to establish policies and procedures relating to the program, including all of the following:

- a. Grants must be awarded to multicounty regions in proportionate amounts based upon the percentage of the state population residing within each region;
- b. Grants must be awarded only to regional organizations having sufficient private sector involvement, as determined by FWDA;
- c. FWDA must approve the structure, regional investment strategy, and administrative guidelines of regional loan funds;
- d. Each regional organization awarded a grant must, at a time determined by FWDA make a report to the Authority containing information required by FWDA; and
- e. For each regional organization awarded a grant, FWDA may annually assess a fee as a percentage of the moneys managed to the extent necessary to reimburse the Authority for costs incurred for oversight and management.

These provisions would take effect on January 1, 2016.

Create a nonstatutory provision specifying that, in submitting its 2017-19 budget request, DOA must submit information concerning FWDA's regional revolving loan fund grants appropriation, as would be created by this bill, as though that appropriation had not been made.

**Joint Finance:** Delete provision.

**3. GRANT FOR GLOBAL ENTREPRENEURSHIP COLLECTIVE, INC.** [LFB Paper 703]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$500,000	- \$500,000	\$0

**Governor:** Provide \$500,000 in 2016-17 for the purpose of making a one-time grant to Global Entrepreneurship Collective, Inc. (GEC), an organization that provides training and other assistance to veterans engaged in entrepreneurship. Require FWDA to make the grant in 2016-17. Specify that at least \$300,000 of the grant must be to pay for costs associated with a start-up of a business located in Wisconsin that a veteran owns. Provide that these grants may only be made to veterans who are Wisconsin residents or to businesses owned by veterans who are state residents. Specify that up to \$200,000 of the grant may be for entrepreneurial training and related services to veterans who are state residents. Specify that GEC may not expend any of the grant moneys after June 30, 2017, or a later date established by FWDA, and require GEC to pay any unexpended moneys to DOA Secretary, for deposit in the general fund.

Require GEC to submit to FWDA and to the Secretary of the Department of Veterans Affairs a report annually by March 1, until 2018, or one year following the sunset date established by the Authority. Require the report to include the following: (a) the most recent financial statement for GEC; (b) a detailed description of the criteria GEC used to determine who received a grant during the previous year; (c) a verified statement describing in detail grants GEC made to veterans' business start-up costs or veterans' entrepreneurial training during the previous year, which must be signed by an independent certified public accountant and the director or principal officer of GEC, so as to attest to the accuracy of the verified statement; and (d) a summary of all investments and grants of any kind that GEC made during the previous year.

Provide that, for each award GEC made during the previous year, the verified statement that GEC is required to include in its annual report must include the following information for each grant awarded: (a) the name and address of the grant recipient and the name and address of the start-up business; (b) the names and addresses of all of the start-up business's owners, including an identification of the business's owners who are veterans, and, if the grant recipient were a business other than the start-up business, the names and addresses of the grant recipient's owners, including an identification of the business's owners who are veterans; (c) the names and addresses of the start-up business's board of directors and key management employees and, if the grant recipient were a business other than the start-up business, the names and addresses of the grant recipient's board of directors and key management employees; (d) a description of the nature of the start-up business; (e) any information the grant recipient submitted to GEC to apply for the grant; (f) the amount of the grant and the date GEC awarded the grant; and (g) a statement of the number of employees the start-up business employed on January 1 of the previous year and the number of employees the start-up business employed on December 31 of the previous year.

Require FWDA, in submitting its budget request for the 2017-19 biennial budget, to subtract \$500,000 from the base of the general program operations appropriation (so that the funding provided for making the grant is not part of the ongoing base of the appropriation).

The 2013-15 biennial budget act required the Department of Veterans Affairs to make a one-time grant to VETransfer, Inc. in 2013-14, with the same conditions as would apply to the grant made by the Authority to GEC under this item.

**Joint Finance:** Delete provision.

#### **4. REMOVE JOINT COMMITTEE ON FINANCE OVERSIGHT WHEN CREATING A NONPROFIT FOUNDATION**

**Governor:** Allow FWDA to establish a nonprofit organization without the approval of the Joint Committee on Finance (JFC). This provision would take effect on January 1, 2016, or on the day following publication of the budget bill, whichever is later.

Under current law, pursuant to 2013 Wisconsin Act 20, WEDC cannot establish a nonprofit organization without JFC approval. JFC may approve WEDC's establishment of a

nonprofit organization if the Corporation's CEO submits a request for approval to the Committee that describes, in detail, WEDC's proposal and the CEO appears at a meeting of JFC to consider the request. For purposes of these provisions, a nonprofit organization means any organization described under section 501(c)(3) of the Internal Revenue Code (IRC) that is exempt from federal income tax under IRC section 501(a). The bill would exempt FWDA from these provisions.

**Joint Finance:** Delete provision.

## **5. OPEN RECORDS REQUIREMENTS [LFB Paper 301]**

**Governor:** Specify that FWDA documents and records, and records of any corporation established by the Authority, are considered public records under the state open records law, except the following: (a) records containing personally identifiable information; (b) information that would jeopardize an applicant's competitive position; or (c) records consisting of information on the In Force Network or other similar customer relationship management system maintained by FWDA, unless the information is published to the In Force Network or other system by the Authority or another economic development organization. (The In Force Network is an information-sharing service maintained by WEDC on which private entities can post or share certain information.)

The bill would generally apply WHEDA's open records requirements under current law to FWDA; the exception pertaining to the In Force Network would be newly created by the bill. Under current law, WEDC records are subject to open-records requirements except for those that pertain to pending activities and that contain information that must remain confidential to protect the competitive nature of the project. This provision would take effect on January 1, 2016, or on the day following publication of the bill, whichever is later.

**Joint Finance:** Delete provision.

## **6. GRANT AND LOAN RECIPIENT REPORTING REQUIREMENTS [LFB Paper 302]**

**Governor:** Specify that FWDA require all of the following for each economic development program it develops and implements:

a. That each recipient of a grant or loan under the program submit, within 120 days after the end of the recipient's fiscal year in which any grant or loan funds were expended, or at a different time as provided in policies and procedures approved by the FWDA Board an attestation, signed by the director or principal officer of the recipient. The attestation would have to verify that the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract.

b. That each recipient of a grant or loan under the program of at least \$500,000 engage an independent certified public accountant (CPA) to perform procedures, approved by FWDA



and consistent with applicable professional standards of the American Institute of CPAs, to determine whether the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract.

c. That each recipient make available for inspection the documents supporting the attestation submitted under "a".

d. That the contract with each grant or loan recipient must include the requirements listed above.

e. That FWDA, if a recipient of a grant or loan under the program submits false or misleading information or fails to comply with the terms of a contract entered into with the Authority, without providing satisfactory explanation for the noncompliance, do all of the following: (1) recoup payments made to the recipient; (2) withhold future payments to be made to the recipient; and (3) impose a financial penalty on the recipient.

The bill would also specify that the above requirements do not apply to a state department, an independent agency, an authority, or the University of Wisconsin System. These provisions would first apply to grant and loan contracts entered into on January 1, 2016, or on the day following publication of the bill, whichever is later.

Under current law, the WEDC Board must require for each program developed and implemented by the Board all of the following:

a. That each recipient of a grant or loan under the program of at least \$100,000 submit, within 120 days after the end of the recipient's fiscal year in which any grant or loan funds were expended, a schedule of expenditures of the grant or loan funds, including expenditures of any matching cash or in-kind match, signed by the director or principal officer of the recipient to attest to the accuracy of the schedule of expenditures. The recipient must engage an independent CPA to perform procedures, approved by WEDC and consistent with applicable professional standards of the American Institute of CPAs, to determine whether the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract. The Board must also require the recipient of such a grant or loan to make available for inspection the documents supporting the schedule of expenditures. The Board must include these requirements in the contract with grant or loan recipients.

b. That the Board, if a recipient of a grant or loan under the program submits false or misleading information or fails to comply with the terms of a contract entered into with WEDC without providing satisfactory explanation for the noncompliance, do all of the following: (1) recoup payments made to the recipient; (2) withhold future payments to be made to the recipient; and (3) impose a financial penalty on the recipient. This is the same as item "e" above.

**Joint Finance:** Delete provision.

## **7. NONDISCRIMINATION IN AUTHORITY PROGRAMS**

**Governor:** Specify that FWDA would be subject to WHEDA's current standards for

nondiscrimination in its programs, and repeal requirements that WEDC include in its contracts a clause obligating the contractor not to discriminate against any employee or applicant for employment. This provision would take effect on January 1, 2016, or on the day following publication of the bill, whichever is later.

Under current law, WHEDA must require that : (a) occupancy of housing projects assisted by WHEDA financing are open to all regardless of sex, race, religion, creed, sexual orientation, or status as a victim of domestic abuse, sexual assault, or stalking, and (b) contractors and subcontractors engaged in the construction of economic development or housing projects shall provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation or creed.

Also, under current law, WEDC is required to include the following statement in each contract executed by the Corporation:

"In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant because of age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin. This provision must include, but not be limited to, the following: (a) employment, upgrading, demotion, or transfer; (b) recruitment or recruitment advertising; (c) layoff or termination; (d) rates of pay or other forms of compensation; and (e) selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause."

State law includes certain provisions in which DOA can recommend procedures for the nondiscrimination and affirmative action provision described above, receive complaints and investigate those complaints as to whether a violation occurred, and direct the violating party to take immediate steps to prevent further violations. Current law also requires WEDC to take certain steps if such a violation occurs, and may terminate a project with a violating contractor. The provisions that apply to WEDC under current law would not apply to FWDA under the bill.

**Joint Finance:** Delete provision.

## **8. REPORTING ON BUSINESS WITH MINORITY- OR DISABLED-VETERAN-OWNED FIRMS**

**Governor:** Require FWDA to report annually to the Department of Administration on contracts or business transactions with firms owned predominantly by minority group members or disabled veterans. The provision applies to WHEDA under current law for purchases from or other investment services provided by such firms. The application to FWDA would take effect beginning January 1, 2016, or the day following the bill's publication, whichever is later.

**Joint Finance:** Delete provision.

## 9. POSITION OPENING NOTIFICATION PROGRAM

**Governor:** Repeal the requirement that a state agency, the Wisconsin Health and Educational Facilities Authority (WHEFA) or WHEDA notify WEDC of any grant or loan made to a for-profit company. Under current law, a for-profit company that receives a grant or loan from a state agency, WHEFA or WHEDA is to notify the Department of Workforce Development (DWD) and a local workforce development board of any position that is related to state financial assistance provided the company and that is to be filled within one year of receiving assistance. A similar requirement applies to persons and companies participating in the industrial revenue bond (IRB) program administered by WEDC.

Also, under current law, WEDC is to monitor compliance with companies' reporting requirements. The bill would repeal this requirement. As such, under the bill, companies receiving IRBs or assistance under other programs would continue to be required to report to DWD position openings related to the assistance, and DWD would retain enforcement requirements held under current law. The bill would delete provisions related to WEDC's additional oversight of the requirements. The repeals would apply beginning January 1, 2016, or the day after the bill's publication, whichever is later.

**Joint Finance:** Delete provision.

## 10. BIENNIAL FINANCIAL AUDIT

**Governor:** Specify that, biennially, beginning in 2017, the Legislative Audit Bureau (LAB) must conduct a program evaluation audit of the economic development programs administered by FWDA that are funded by monies appropriated by the state. Under current law, the LAB must conduct, biennially (beginning in 2013), both a financial audit of WEDC and a program evaluation audit of the economic development programs administered by WEDC. FWDA would not be subject to a biennial financial audit under the bill. This provision would take effect on January 1, 2016, or on the day following publication of the bill, whichever is later.

**Joint Finance:** Delete provision.

## 11. ANNUAL REPORT TO LEGISLATURE

**Governor:** Specify that FWDA must submit an annual report by October 1 of each year to the chief clerk of each house of the Legislature, for distribution to the Legislature, identifying the economic development and housing programs and projects that the Authority intends to develop and implement during the current fiscal year. Under current law, WEDC is required to submit a similar prospective annual report (in the same manner as provided under the bill) by January 1 of each year. The bill would require that the annual report: (a) be due on October 1, rather than January 1; and (b) include plans identifying proposed housing programs and projects, in addition to economic development projects.

Also, under current law, WEDC and WHEDA must report to the Legislature on program

activity after the conclusion of each entity's fiscal year. The bill would repeal annual reporting requirements currently applied to WHEDA, and generally apply current WEDC year-end annual reporting requirements to FWDA. FWDA year-end reporting requirements, however, would not include year-end activity for housing programs. This provision would take effect on January 1, 2016, or on the day following publication of the bill, whichever is later.

**Joint Finance:** Delete provision.

## **12. DELETE REPORTING REQUIREMENT**

**Governor:** Specify that FWDA would not be required to submit to the State of Wisconsin Investment Board (SWIB), no later than September 30 of each even-numbered year, a report describing the types of investments in businesses in this state that will have the greatest likelihood of enhancing economic development in the state. This provision would take effect on January 1, 2016, or on the day following publication of the budget bill, whichever is later. Under current law, WEDC is required to submit such a report to SWIB.

**Joint Finance:** Delete provision.

## **13. ASSISTANCE TO NEW AND SMALL BUSINESSES**

**Governor:** Retain the current law requirement that WEDC assist new businesses and small businesses receiving the assistance of WHEDA in locating sources of venture capital and obtaining the state and federal licenses and permits necessary for business operations. The Legislative Reference Bureau indicates that this provision was intended to be repealed under the Governor's proposed merger to create FWDA. A technical amendment would be needed to accomplish the administration's intent.

**Joint Finance:** Maintain current law.